

Prometheus Radio Project

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Federal Communications Commission
445 12th St. S.W.
Washington DC 20554

RECEIVED

August 18, 2000

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Docket #99-25

Dear Ms. Salas,

FCC MAIL ROOM

I write you as a staff member of the Prometheus Radio Project, a non-profit media activist organization formed to help promote the Low Power FM service. We travel the country telling community groups about LPFM, and advise neighborhood organizations that intend to apply for a license to broadcast.

I would like to bring to your attention a matter of considerable concern to me in the LPFM rules. To my knowledge, it has not been addressed in the petitions for reconsideration brought before the Commission.

I have learned that there is no formal process for making amendments to LPFM applications after the filing window is over. Certain minor changes can be made by simply writing a letter, but amendments currently can not be made to location or frequency. I believe that this policy is deeply problematic. The most recent Public Notice, DA 00-1697 (July 28, 2000), announcing the low power radio filing window included the following statement:

Single Application Limitation. An applicant may not file more than one application in this window. Currently, no one may hold an attributable interest in more than one LPFM station. Section 73.855(b)(1). Accordingly, a second application filed by an applicant in this window would be treated as a "conflicting" application subject to dismissal under Section 73.3518. See also Section 73.801 (making Section 73.3518 applicable to LPFM stations). This restriction applies even where more than one frequency is available to an applicant at its proposed transmitter site.

Generally, low power radio applicants have no knowledge of who else may apply for the available frequencies in their town. Thus, in many cases, there may be two frequencies open in town, and two applicants, but both inadvertently file for the same frequency. Either applicant would be happy to move to the other frequency to avoid a mutually exclusive application, avoiding the complications involved in a time share arrangement. As per this notice, such a sensible action would be impossible. Of course, we all know that a change in location or a change in frequency is ordinarily considered a major change to an existing station. However, it make no sense to treat a new applicants request to get out of someone elses' way a major change. Under this policy, an applicant could be denied a license even when frequencies are available. Given the incredible shortage of LPFM eligible frequencies in many areas of the country, this policy is unconscionable.

This lack of flexibility would leave a useable frequency fallow while two stations are forced to share the original frequency. That frequency will not be able to be applied for until another application window is opened. The next window will be for ten watt stations, and often a ten watt station will be put in where a hundred watt could have fit. This is an inefficient use of available radio spectrum. Even if this does not

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happen, the next LP-100 window could be many years away, if indeed a window for these stations is ever opened again.

These rules are wasteful of FCC resources. Mutually exclusive applications are much harder to process than "singletons" (applications with no competition between groups). It will take longer for these stations to get on the air, and the potential for future conflict among time sharing groups is greater than the potential for conflict among those who have been allocated their own frequencies.

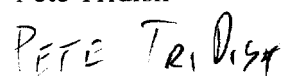
I am not recommending that LPFM applicants be allowed to change frequency or location at whim. My recommendation is that common sense be allowed to prevail in preventing mutual exclusivity. Upon discovering mutual exclusivity, an applicant should be allowed to amend their location or frequency request. Of course, in doing so, they are giving up their claim to the first frequency that they filed for, so their second application does not "conflict" with the first - it merely amends the first application.

I have been unable to find any good reason for the aforementioned policy. It is the role of the FCC to regulate the radio spectrum in the public interest. This policy creates confusion, conflict and chaos (not to mention paperwork) where common sense could easily create amicable solutions. Once the closing of the filing window establishes and identifies the players on the field, there should be maximal technical flexibility for applicants. Both frequency and location should be able to be amended in order to avoid mutual exclusivity. Of course, frequency and location should not be able to be amended in order to create mutual exclusivity.

I am not alone in this concern. Staff members of other organizations devoted to the service of LPFM licensees agree that this unfortunate policy choice could substantially damage the new service. These organizations include the United Church Of Christ Microradio Implementation Project, the General Board of Global Ministries of the Methodist Church, the Media Access Project, the National Lawyers Guild Committee on Democratic Communications.

I thank you for your consideration of this seemingly small matter, since its implications are so much larger than are immediately apparent to the casual observer. I would be happy to discuss this matter with anyone who desires further information.

Pete Tridish



Prometheus Radio Project

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